

**MINUTES**  
**TOBACCO EDUCATION AND RESEARCH OVERSIGHT COMMITTEE**  
**DECEMBER 12, 2000**

DEPARTMENT OF HEALTH SERVICES – MALCOLM MERRILL CONFERENCE ROOM  
601 N. 7<sup>TH</sup> STREET  
SACRAMENTO, CA

**MEMBERS PRESENT:**

David M. Burns, M.D.  
Jennie R. Cook, Chairperson  
Gus T. Dalis, Ed.D  
Dorothy Rice  
Ken Wesson, Ph.D

**VACANCIES (APPOINTING AUTHORITY):**

Health Care Employees Representative  
(Senate Rules Committee)  
Volunteer Health Organization Representative  
(Speaker of the Assembly)  
Local Health Department Representative  
(Governor)  
Target Population Group Representative  
(Governor)  
Department of Health Services Representative  
(Governor)

**Members Absent:**

Lourdes Baezconde-Garbanati, Ph.D.  
Thomas Paton  
George Rutherford, M.D, M.P.H.

**Others in Attendance:**

Dileep G. Bal, M.D. Chief, Cancer Control Branch, Department of Health Services (DHS)  
Anne Borchert, Gold Country Regional Project  
Jeff Clingenpeel, DHS/Tobacco Control Section (TCS)  
David Cowling, TCS  
Laura Eastman, Ground Zero  
Dennis Eckhart, Attorney General's Office  
Susanne Hildebrand-Zanki, Ph.D., Director, TRDRP  
Dian Kiser, Director, BREATH Project  
Kevin Keane, American cancer Society  
Linda Kearns, Orange County Department of Education  
Kirk Kleinschmidt, American Cancer Society  
Paul Knepprath, American Lung Association  
Gerald Kilbert, California Department of Education, Healthy Kids Program Office  
Jon Lloyd, Chief, Data Analysis and Evaluation Unit, DHS/TCS

**Don Lyman, M.D.**, Chief, Division of Chronic Injury and Disease Control  
**Greg Oliva**, DHS/TCS  
**Sharon Muruoka**, ACS  
**Kenneth O’Neill**, DHS/TCS  
**Emily Reynolds**, Gold Country Regional Project  
**April Roeseler**, DHS/TCS  
**Jan Ryan**, Desert Sands Office of Education  
**Robin Shimizu**, Assistant Chief, DHS/TCS  
**Colleen Stevens**, Chief, Media Unit, DHS/TCS  
**Cyndi Yee**, Ground Zero

## **1. Welcome and Introductions: Review of Meeting Agenda**

Mrs. Jennie Cook, Chair, called the meeting to order at 1:00 p.m. and welcomed members of the committee and others in attendance, and asked that everybody introduce themselves.

## **2. Approval of Minutes from Meeting on September 12; Announcements, Review of Correspondence**

Mrs. Cook then asked that the minutes from the September 12, TEROC meeting be approved. Dr. Gus Dalis pointed out a correction needed on page 6. The minutes were then approved.

Dr. Dalis commented that (in reference to remarks he had made in the minutes about the media campaign) he was especially pleased with the “*Crocodile*” ad, which satirizes Philip Morris’s public relations campaign to improve its corporate – citizen image.

Mrs. Cook then addressed the six Action Items from the September 12<sup>th</sup> meeting in Los Angeles. Action Item #1 was a letter to the Sacramento Bee refuting a Dan Walters editorial in the Sacramento Bee saying that the Master Settlement money should not be earmarked for specific health purposes. Mrs. Cook reported that she sent a letter but unfortunately it was not published by the Bee.

Action Item #2 was to send a letter to the University of California, Board of Regents requesting that they adopt a policy of prohibiting the University’s researchers from accepting funding from the External Research Program established by Philip Morris. Mrs. Cook stated that the Board of Regents did respond to the letter. However, she added that the response was essentially, “thank you for writing, but our policy stands” in regard to funding from sources such as Philip Morris. She also added that this response was not acceptable to committee member Thomas Paton, and he felt that another letter should be sent from TEROC reiterating the committee’s position.

Mrs. Cook informed the committee that other groups had also sent letters to the Board of Regents about this issue, including the American Cancer Society and Dr. Alan Hendersen representing a group of health science professors from California State University, Long Beach.

Dr. Bal informed the committee that Mr. Paton called him on the 11<sup>th</sup> of December and said that he indeed was very dissatisfied with the UC response and wondered whether something else could be done.

Dr. Burns discussed the prospect of sending similar letters to the American Cancer Society (ACS), the National Cancer Institute (NCI), and other organizations that fund research, requesting that they adopt a policy like TCS's which not only prohibits the acceptance of these sort of funds, but also prevents them from funding any organization that currently receive tobacco money. In further discussion, it was suggested that TEROC also send a letter to the cancer research program within DHS, as well as its advisory committee because they also fund UC researchers. It was also suggested that a letter go to the Director of DHS recommending the same policy for all appropriate Department contracts.

Dr. Burns emphasized the need to craft these letters carefully. Dr. Bal suggested that if they wished TEROC could send an identical letter to Dr. Hildebrand-Zanki of the Tobacco Related Disease Research Program (TRDRP).

In further discussion of this issue, Dr. Hildebrand-Zanki stated that she is still working with her legal council regarding such a policy for TRDRP. She said TRDRP is considering an educational campaign directed at their principal investigators that would address all the pro's and con's, as well as the implications, of taking money from the tobacco industry. The campaign would emphasize the de facto legitimization of the industry that come with the acceptance of these funds

Dr. Dalis suggested that TEROC write a "white paper" that would go beyond the UC system to cover other governmental agencies, including the State University system. He added that this effort could help to play a role in educating the public about these funding issues. He also stated that, in general, college campuses should be tobacco free, including their restrooms and vehicles.

When asked about the TCS policy, Ms. April Roeseler of TCS explained that community-based organizations funded by TCS cannot accept money from the tobacco companies. However, since universities are so large, individual researchers at these institutions may be funded by TCS even though the institution itself may be receiving tobacco money.

Dr. Dalis moved to send letters requesting that the Department of Health Services adopt the TCS policy prohibiting the funding of entities that have received monies from the Philip Morris Company. The motion was broadened to include sending similar letters to

TRDRP and to appropriate national entities that fund research. The motion was carried. Dr. Burns agreed to draft the letter.

Mrs. Cook next turned to the Action Item to investigate whether the warning labels found on herbal cigarettes were non-compliant with the provisions of Proposition 65. She stated that a response was received from the Attorney's General office. She read aloud some of these summary findings from court settlement documents that were sent to TEROC about herbal cigarettes and Proposition 65.

Jon Lloyd of TCS said that past legal settlements in this area were arrived at through private-party lawsuits, and the basis of the lawsuits was the existence of carbon monoxide in herbal cigarette smoke. Carbon monoxide has been limited as a poisonous gas under Proposition 65 requirements would require a warning.

Dennis Eckhart of the state's Attorney's General (AG) office stated that citizens have to challenge the herbal cigarette businesses one by one in court. According to him, this recourse is open to anybody interested in pursuing these companies and/or businesses.

Jeff Clingenpeel of TCS said that, according to information that was given to him from Ed Weil of the Attorney's General office in Oakland, proceedings against these entities must originate at the local level, specifically through the local District Attorney's office.

Mrs. Cook asked Dennis Eckhardt of the AG's office if he would give TEROC a presentation on Proposition 65 and its applicability to herbal cigarettes at the next TEROC meeting in February. He said he would be happy to do so.

Mrs. Cook then turned to TEROC's request that a representative from the State Board of Equalization (BOE) attend this meeting to inform TEROC of the BOE's determination of Proposition 10 backfill amount to the tobacco control, research and breast cancer programs. She explained that the BOE was meeting today and that therefore no one was available to discuss the Proposition 10 "backfill" issue. She reported that she had received mail from BOE explaining the calculations for the backfill for fiscal year 1999-2000. The total backfill to go in the fiscal year 2001-2002 budget was \$24 million. The Breast Cancer Research Program will get \$5.4 million. Proposition 99 programs will get \$18.6 million, of which \$14.9 million will go to the health education account, and \$3.7 million will go to the research account. Mrs. Cook said that, based on feedback from Dr. Burns and Dr. Glantz, she concluded that these were fair determinations and she had informed the BOE to that effect.

Mrs. Cook then turned to development since the last meeting. She praised Colleen Stevens of the TCS, Media Campaign Unit for the new media releases. She stated that these new media spots were being well received, and that many had generated a great deal of newspaper and radio discussion.

Mrs. Cook raised the subject of the Philip Morris Company's distribution of book covers to public schools. Dr. Gerald Kilbert of the Department of Education said he first

learned about this from the Office of the Attorney General, which informed him that Arizona schools had been inundated with these book covers. The Attorney General got together and started notifying the states' Departments of Education. Dr. Kilbert stated that he was interviewed by the media regarding one of the Philip Morris book covers. Philip Morris, in a press release, said they were "trying to do what was right" and were "trying to keep kids from smoking".

Mrs. Cook said that she had learned from the Department of Finance that the remaining money tied up in the Americans for Non-smokers Rights lawsuit (ANR II) will be in the Governor's 2001-2002 budget for tobacco control.

Dr. Hildebrand-Zanki discussed the research budget. She pointed out that more research account funds are apparently going to the Department of Health Services Cancer Registry in the 2001-2002 budget than in past years. She encouraged TERO, to the extent possible, to advocate for more money to go to the Cancer Registry, but not at the expense of the research program.

Mrs. Cook moved on to talk about the three year old ban on smoking in bars. She stated that 91% of bar patrons surveyed said they either go to bars more often since 1998 or have not changed their bar related behavior because of the law. In 1998 that percentage was 85%.

Additionally, Mrs. Cook noted the remarkable 14% decline in the rate of lung cancer in California recently reported in the Morbidity and Mortality Weekly Report (MMWR). She said the news was so well received throughout the country that the President of the United States took note of California's Tobacco Control Program.

Ms. Stevens reported that she has a binder with some of the preliminary coverage from the press, and would be glad to share it. She stated that the story was picked up all across the United States and stated that if time allowed at the end of the meeting she would show clips of the news coverage related to that event.

Jon Lloyd stated that Dr. David Cowling actually wrote the article that was in the MMWR that was picked up by the press.

### **3. Legislative Update**

Sharon Muraoka of the American Cancer Society presented an update on what was happening at the State Legislature. She stated that the Legislature was not in session right now, but there still were some developments in the public policy legislative arena that have occurred since the last meeting. Most of these developments had to do with the General Election. Proposition 37, which was defeated on the statewide ballot, would have made it significantly more difficult for the California Legislature and for local government to impose fees on businesses. She commented that the American Lung Association, American Heart Association, and the American Cancer Society were

convinced that the initiative related to them specifically, because it would have had an impact on their ability to assess litigation fees on tobacco companies for the disease and deaths that they had caused. Proposition 37 would have required a majority 2/3 vote in the California Legislature, or 2/3 vote in local government (if it is a local issue) to assess fees on businesses.

In Ventura County, Measure O, also defeated, would have diverted Ventura County's share of tobacco settlement monies to help pay for the costs of providing care for non-paying patients in private hospitals. Ms. Muraoka noted that, if enacted, Measure O would have made tobacco control the absolute last priority.

In Orange County, Measure H was sponsored by the Orange County Medical Association and the California Medical Association (CMA). Measure H, which did pass, designates Orange County's tobacco settlement money to be allocated 80% to health care and 20% to public safety, even though eventually all of the funds will be going to the Sheriff's Department. In that formula there is a 12% set aside earmarked for tobacco control and other addictive programs, including community mental health facilities and services. Measure H takes effect July 1, 2001, so the constituency is trying to advocate for tobacco control's share of the money from now until July. Measure G, also in Orange County, was sponsored by the Treasurer of Orange County, and was a formula for retiring the debt from health care and the jails. This Measure failed.

The West Hollywood City Council enacted a measure whereby landlords can declare apartments smoke-free, and another measure banning self-service tobacco displays. Ms. Muraoka said that this is important at the state level because the West Hollywood action was led by Councilman Paul Perez, who is a new State Assembly member.

Ms. Muraoka said that, from a state-wide perspective, the big concern is the tobacco settlement. She stated that an alliance of the American Lung Association, American Heart Association, American Cancer Society, Campaign for Tobacco Free Kids, and Americans for Non-Smokers is advocating for the Governor to allocate 20% of the tobacco settlement money for tobacco control in the state budget. She was happy to report that they do know for a fact that thousand of letters have been sent to the Governor.

Ms. Muraoka stated that the alliance sent out action alerts statewide to motivate people to write the Governor. Mrs. Cook noted that TEROCC also had sent a letter to the Governor.

In closing, Ms. Muraoka reported that the San Diego County Superior Court upheld Proposition 10 against all of the legal challenges that were brought forward by the California Association for Retail Tobacconist, et al. She stated that they were not sure if they were going to appeal or not, but that it was a good decision by Judge Kraeger.

Dian Kiser reported on a case in San Diego, where a bar was cited for ignoring the ban on smoking and the owners decided that they would take their chances in court. The owners asked for a jury trial. The Judge and jury found the owners guilty, with the fine being assessed at \$1,100. The owners also had to write a letter to every bar owner in San Diego, essentially saying, "don't do what we did". Additionally, they had to close the bar down for two consecutive days.

Ms. Kiser also reported that smoke-free bar compliance has greatly improved in Los Angeles. For the first time C-OSHA has written citations, which has sent a shock wave through out the bar industry in California. Up to this point, C- OSHA has not been involved in the enforcement of the Smoke-free Indoor Workplace law. It takes at least three repeat citations to the same establishment for C-OSHA to act.

Additionally, Ms. Kiser said that there have been some developments in the arena of outdoor tobacco smoke legislation. For instance, in downtown Sacramento, K Street Mall's outdoor dining areas are now 100 percent smoke free.

#### **4. Reports By: DHS Tobacco Control Section, Department of Education, Tobacco-Related Disease Research Program**

Jon Lloyd of the TCS Data Analysis and Evaluation Unit said that Evaluation Task Force (ETF) meeting in San Francisco, members of the ETF voted to send a letter to the Department of Health Services concerning the release of the Wave 2 Independent Evaluation report.

Dorothy Rice said that it had been 9 months since the results of the Wave 2 report was completed, and it still had not been made available to the public. She noted that evaluation reports are not being released in a timely manner, and referred to a TEROC letter to the Director of DHS that underscored the need to be timely in the release of these reports.

Jon Lloyd explained that the report was completed about a year ago, but that it had gone back to the contractor for minor changes before being sent back to the Director's Office for final approval.

Mr. Lloyd said TCS received a draft of the 1999 California Tobacco Survey report at the end of September and then sent out for peer review. He said he is now in the process of compiling reviewers' feedback. He assured the committee members that they would promptly receive a copy upon final approval of the report.

Mr. Lloyd then briefly spoke about some of the data that had been analyzed since the last TEROC meeting. He reported that California's decline in cigarette consumption over the last decade has been more rapid than in the rest of the nation, although the adult smoking prevalence in California has been very flat since about 1994. He said

that another very encouraging indication of changing behaviors and norms is the increased rate of “quit attempts”.

In discussing the general attitudes of Californians about tobacco control, Mr. Lloyd commented that it is encouraging to see that about 60 percent of California adults support a 50-cent per pack increase in the tax on tobacco products even after the Proposition 10 increase.

Paul Knepprath of the American Lung Association asked Mr. Lloyd if he had any data supporting the notion that Sudden Infant Death Syndrome (SIDS) is definitely associated with maternal smoking. Mr. Lloyd responded by saying that he did not have any specific data pertaining to SIDS and maternal smoking.

At the conclusion of the TCS report, Dorothy Rice made a motion to send another letter to the Director, Diana Bontá requesting the release of the Wave 2 report. The motion was carried.

Next, Dr. Susanne Hildebrand-Zanke of the Tobacco-Related Disease Research Program gave her report. She informed the group that her only update was that the Tobacco Related Disease Research Program held its Annual Investigators meeting in San Diego on November 30, and December 1, and that it was a great success.

## **5. Presentation from the Desert Sands Unified School District on the Student Assistance Program**

Jan Ryan gave a brief overview of the Student Assistance Program in the Desert Sands Unified School District. She stated that what makes their program different from other educational-based interventions is the way it is integrated with the students' curriculum. To help hard to reach 10<sup>th</sup>-12<sup>th</sup> graders, they use what they then call a “designated hitter,” a staff person who works specifically on tobacco, and he goes into every 10<sup>th</sup>-12<sup>th</sup> grade classroom. He acts as a link between the American Cancer Society and the 23,000 students, especially the 9<sup>th</sup>-12<sup>th</sup> graders. He works the family of individual students. Every student that receives an alcohol or other drug-related offense is required to enter the student assistance program; 6<sup>th</sup>-12<sup>th</sup> grade students who receive violence-related offenses also have to enter the program.

The Chair asked if the model was being used in any other school system, since it has been in effect for four years. Ms. Ryan answered by saying that so far six other districts in Riverside County have duplicated the model.

Dr. Dalis asked if they had entered the program in the program Dissemination Center Database. Ms. Ryan replied that this was not the case now, but that she would make sure that it becomes a reality.



## **6. Communities of Excellence**

Mrs. Cook informed the committee and others in attendance that April Roeseler, who was on the agenda to report on the Communities of Excellence, would make her presentation at the next meeting in February.

## **7. Media; New Advertisements**

Colleen Stevens of the Media Campaign Unit reported that a number of new ads, all coming out of the end of the last contract, had been produced and aired. Also, the new ad agency *Ground Zero* has selected new sub-contractors, and in this coming year, TCS will launch the largest ethnic ad campaign seen in a long time.

Ms. Stevens then showed a selection of five of the recently released new video ads.

In a general discussion about the media, Dr. Dalis inquired if there had been any definitive answer regarding DHS's policies and procedures for media approval. He inquired about the status of the TERO letter that specifically requested these procedures.

Dr. Lyman said his perception was that the complaint of this group and others has been with the "process" rather than "the product". He acknowledged that the time to develop and disseminate the ads was excessive, but noted that the problem has been solved. He suggested that it was best not to raise the issue now that the process is working. Dr. Dalis disagreed, saying that some sort of process document or algorithm could be used to facilitate assistance in improving the process. There was no resolution of motion on this issue, and the Chair thanked Ms. Stevens for her report.

## **8. Other Business; Set Next Meeting Dates**

The Chair expressed concern about the relatively low level of the Local Lead Agency (LLA) funding compared to the media campaign funding. She noted that a large number of LLAs were down to the minimum of \$150,000 a year, and she was concerned that any given county would be hard pressed to produce anything of substance with this negligible amount of money.

In terms of funding issues, April Roeseler stated that there will be no new programs if TCS does not receive additional funds for the competitive grant programs. She indicated that TCS had 19 proposals from projects last year with passing scores that could not be funded because of lack of money. She said that she has 30 contracts that end on June 30<sup>th</sup>. Dr. Bal agreed that the competitive grantees in particular were in need of additional funding.

April stated that the problem is that even if more money is made available, it will be difficult to get a contract in place by July 1. She said that TCS is waiting to see what happens with the Governor's budget.

Dr. Bal stated that he wanted to make sure everybody is aware of the fact that neither he, Dr. Lyman, any of the TCS staff, or the Cancer Registry folk have in any way suggested that the research money be redirected for any purposes other than for what it was originally intended.

In closing comments, Paul Knepprath commented that everyone in the public domain needs to "return to our old roots" at the community level. In his estimation, the constituency has brought the problem of preferential funding for media on itself by making the media its strongest argument for maintaining the program. He said that the constituency now understands what the problem is and will address it in the next legislative session.

The Chair then informed the committee that the next two dates for the TEROC meetings are February 27, 2001, Tuesday, in Oakland, from 10:00am to 3:00pm and May 22, 2001, here in Sacramento from 1:00pm to 4:00pm. She also announced that Christine Fenlon of *Prescription for Change* will be presenting at the next meeting.

Mrs. Cook asked if there were any further business. She then wished everybody Happy Holidays and declared the meeting adjourned.